

ATTACHMENT 5



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Philadelphia District Office

21 South 5th Street, Suite 400
Philadelphia, PA 19106-2515
(215) 440-2600
TTY (215) 440-2610
FAX (215) 440-2632, 2848 & 2604

April 17, 2008

Our Reference: Charge Number 530-2007-01838
Powell v. SUNOCO, Inc.

Ms. Tiana R. Escofil
Labor & EEO Specialist
SUNOCO, Inc.
1735 Market St., Ste. LL
Philadelphia, PA 19103-7583

Dear Ms. Escofil:

Enclosed are both a "Notice of Right to Sue (Issued On Request)" and a "Second Request for Information" for the above-referenced charge. With the issuance of the Notice of Right to Sue, the EEOC will discontinue its processing of the Charging Party's allegations of individual harm under both Title VII of the Civil Rights Act of 1964, as amended (Title VII) and the Age Discrimination in Employment Act of 1967, as amended (ADEA). However, the Commission will continue to process the charge insofar as it relates to tests utilized at Respondent's refineries located in Philadelphia, PA; Marcus Hook, PA; Westville, NJ; Toledo, OH; and Tulsa, OK. The second Request for Information pertains to the tests referenced above.

If you have any questions in this regard, please address them to the assigned Investigator, Brenda Hester, at the address shown in the letterhead above or by calling her at (215) 440-2815.

Thank you for your anticipated cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "William D. Cook".

William D. Cook
Enforcement Manager

enclosures (2)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Mr. Kevin C. Powell
409 Benjamin Wright Dr.
Middletown, DE 19709

From: Equal Employment Opportunity Commission
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127

[] On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
530-2007-01838	Legal Unit	(215) 440-2828

(See also the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- [x] More than 180 days have passed since the filing of this charge.
- [] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
- [x] The EEOC is terminating its processing of this charge. (for Charging Party's individual allegations)
- [x] The EEOC will continue to process this charge. (for the issue of testing)

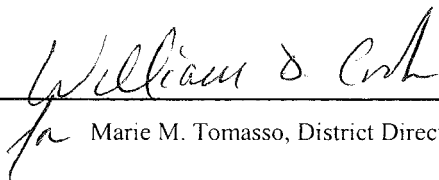
Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

- [x] The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
- [] The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Marie M. Tomasso, District Director

4/17/08

(Date Mailed)

Enclosure(s)

cc: Tiana R. Escofil (for Respondent SUNOCO, Inc.)
Nancy C. DeMis, Esq. (For Charging Party)

ATTACHMENT 6



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Philadelphia District Office

801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
(215) 440-2600
TTY (215) 440-2610
FAX (215) 440-2632, 2848 & 2604

April 17, 2008

Our Reference: Charge Number: 530-2007-01838 Powell v. SUN COMPANY

Tiana R. Escofil
Labor & EEO Specialist
SUNOCO, INC.
1735 Market Street, Suite LL
Philadelphia, Pa. 19103-7583

Dear Ms. Escofil:

After analyzing the information your organization previously provided in response to the Commission's First Request for Information, we believe that additional information and records are needed to resolve the remaining issues in the above referenced charge. The Commission, in accordance with Title VII and its rules and regulations, is hereby informing your organization that the scope of the Commission's investigation is being expanded to include additional facilities and issues regarding your hiring process.

In furtherance of our investigation, the Commission has attached a "Second Request for Information" requesting additional information to complete our investigation. This Request seeks the submission of various records and documents regarding your organization's "testing" requirement during the hiring process. Your response is hereby due on or before May 9, 2008.

If you do not have access to documents for any information requested herein, please identify the persons having such access or knowledge.

PLEASE TAKE NOTICE:


FAILURE TO FOLLOW THE INSTRUCTIONS CONTAINED HEREIN, OR PROVIDING AN EVASIVE OR INCOMPLETE ANSWER WILL CONSTITUTE A FAILURE TO RESPOND AND SHALL SUBJECT THE RESPONDENT TO THE SERVICE OF A SUBPOENA FOR THE REQUESTED DOCUMENTS AND INFORMATION.

Our Reference: Charge Number: 530-2007-01838 Powell v. SUN COMPANY
Letter to Ms. Escofil
April 17, 2008

This request for information does not represent the entire body of evidence which the EEOC will need to obtain from your organization to conclude the investigation of these charges.

Thank you for your anticipated cooperation.

Sincerely,


(Mrs.) Brenda Hester
Investigator

SECOND REQUEST FOR INFORMATION

530-2007-01838 POWELL v. SUN COMPANY

Investigative period - The investigative period is defined as the period from January 1, 2004 until the present.

Test - is defined as any paper-and-pencil, electronic (including Internet and Intranet), written, oral or other graded performance measure used as a basis for any employment decision.

Facilities – This request for information is specific to your refineries located in Philadelphia, PA; Marcus Hook, PA; Westville, NJ; Toledo, OH; and Tulsa, OK.

Provide the following information pursuant to the identified investigative period:

1. A copy of each and every test utilized in the Company's hiring process for all positions, including entry level positions, for the above named facilities.
2. Identify each and every position at the above referenced facilities. Supply a copy of each test for each position used to determine qualifications for hire and an explanation of the grading system used. Supply a copy of any evaluation form used to determine qualifications.
3. Supply a statement or documents describing the procedures used in the administration of each written and/or manual or "practical" test used in the hiring process for all positions in the facilities identified above, including entry level positions. If you are aware of any variations from those procedures, explain those variations and the reasons for them.
4. Submit a statement or documents which describe the Company's scoring process for each test administered for any job classification, including entry level positions. Please indicate whether the Company utilizes a fixed or sliding score on any test used for employee selections to any job classification, including entry level positions. Identify each test used in the selection and explain how it is scored for each job classification.
5. Supply a statement or documents describing the circumstances in which the testing requirement for any job or job classification, including entry level positions, have ever been or may be waived.
6. May an applicant or employee retake a test, including a test for entry level positions, after failing to "pass" or failing to achieve a satisfactorily high score? If so, submit a list of persons retested for failing to "pass" and/or failing to achieve a satisfactory score for all job classifications requiring a test, including entry level positions, during the investigative period. Identify the applicant by name, race, and date of birth; identify the test taken, including the dates and scores of tests, and, identify the jobs and/or job classifications requiring the test.

SECOND REQUEST FOR INFORMATION

530-2007-01838 POWELL v. SUN COMPANY

7. Submit a list of persons by name, race, date of birth, and job classification, including applicants for entry level positions, who were exempt from taking the test or received waivers of the test during the investigative period. For each person identified, describe in detail the reasons why these persons were exempt from taking the tests.
8. Supply a list of the applicants or employees who took a test given for any job classification, including entry level positions during the investigative period. For each person listed, identify them by name, race, date of birth, position, actual test score, and if selected, indicate the date of the selection and position for which selected.
9. If you wish to submit any additional evidence which you believe will more fully support your position, please submit such evidence along with the requested information herein.

ATTACHMENT 7



Sunoco, Inc.
1735 Market Street Ste LL
Philadelphia PA 19103-7583

VIA FACSIMILE 1.215.440.2632

April 24, 2008

Ms. Brenda Hester
Equal Employment Opportunity Commission
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia PA 19107-3127

CERTIFIED MAIL 7007 0710 0004 9009 1962

Re: 530-2007-01838
Kevin Powell

Dear Ms. Hester:

I am writing this letter in follow-up to the message I left for you today and in response to your letter of April 17. In your April 17th letter you stated that you have discontinued the processing of case # 530-2007-01838 under both Title VII and the ADEA and you issued a "Right to Sue". Yet in the same letter you requested additional information with regard to this case. Since case # 530-2007-01838 has been discontinued and we have not received a Commissioner's charge, please provide the charge information that you are investigating and for which you have requested the additional information.

Should you have any questions or concerns feel free to contact me at 215.977.6759.
Thank you in advance for your anticipated cooperation in this matter.

Yours truly,

A handwritten signature in cursive script, appearing to read "Carol E. Monaghan".

Carol E. Monaghan
Supervisor Labor and EEO Investigations

cc: T. Gavigan HR, Sunoco, Inc.
W. Cook Enforcement Manager, EEOC

RECEIVED
08 APR 28 PM 4:34
EEOC PHILADELPHIA
DISTRICT OFFICE

ATTACHMENT 8



Sunoco, Inc.
1735 Market Street Ste LL
Philadelphia PA 19103-7583

VIA FACSIMILE 1.215.440.2632

May 07, 2008

Ms. Brenda Hester
Equal Employment Opportunity Commission
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia PA 19107-3127

CERTIFIED MAIL 7007 0710 0004 9009 1948

Re: 530-2007-01838
Kevin Powell

Dear Ms. Hester:

I am writing this letter in follow-up to the message I left for you yesterday asking you contact me. Please be advised that Sunoco Inc. will not provide any information for a charge that has been discontinued and where a "Right to Sue" has been issued. Therefore no additional information will be provided per your April 17th 2008 letter as case # 530-2007-01838 has been discontinued.

Should you have any questions or concerns feel free to contact me at 215.977.6759.
Thank you in advance for your anticipated cooperation in this matter.

Yours truly,

A handwritten signature in cursive script, appearing to read "Carol E. Monaghan".

Carol E. Monaghan
Supervisor Labor and EEO Investigations

cc: T. Gavigan HR, Sunoco, Inc.
W. Cook Enforcement Manager, EEOC

RECEIVED
08 MAY 12 PM 3:14
EEOC PHILADELPHIA
DISTRICT OFFICE

ATTACHMENT 9

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SUBPOENA

TO: Carol Monaghan
Supervisor Labor and EEO Investigations
SUNOCO
1735 Market Street Ste LL
Philadelphia, Pa. 19103-7583

NO. PA-08-11

IN THE MATTER OF: Kevin C. Powell v. Sun Oil Company (aka SUNOCO)

Charge No. 530-2007-01838

Having failed to comply with previous request(s) made by or on behalf of the undersigned Commission official, YOU ARE HEREBY
REQUIRED AND DIRECTED TO:

☐ Testify before: ☐ Produce and bring * or ☒ Mail * the documents described below to:

☐ Produce access to the evidence described below for the purpose of examination or copying to:

Mrs. Brenda Hester, Investigator of the Equal Employment Opportunity Commission

at 801 Market Street, Suite 1300, Philadelphia, Pa. 19107 on June 19, 2008 at 12:00 o'clock

The evidence required is

SEE ATTACHED SHEET

This subpoena is issued pursuant to ☒ (Title VII) 42 U.S.C. 2000e-9 ☐ P (ADEA) 29 U.S.C. 626(a) ☐ (EPA) 29 U.S.C. 209
☐ (ADA) 42 U.S.C. 12117(a)

ISSUING OFFICIAL (Typed name, title and address)

Marie M. Tomasso, District Director
EEOC Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127

ON BEHALF OF THE COMMISSION

William D. Cook

6/6/08

Date



SUBPOENA

Attachment to Subpoena No. PA-08- 11 Dated June 6, 2008 in Charge No. 530-2007-01838

Provide the following information for the period January 1, 2004 to the present:

1. A copy of each and every test utilized in the Company's hiring process for all positions, including entry level positions, for the refineries located in Philadelphia, PA; Marcus Hook, PA; Westville, NJ; Toledo, OH; and Tulsa, OK.
2. Supply a copy of each test for each position in the refineries identified in request #1, if different, used to determine qualifications for hire and an explanation of the grading system used. Supply a copy of any evaluation form used to determine qualifications.
3. Supply a statement or documents describing the procedures used in the administration of each written and/or manual or "practical" test used in the hiring process for all positions in the facilities identified question number 1, including entry level positions. If you are aware of variations from those procedures, explain those variations and the reasons for them.
4. Submit a statement or documents which describe the Company's scoring process for each test administered for any job classification, including entry level positions. Please indicate whether the Company utilizes a fixed or sliding score on any test used for employee selections to any job classification, including entry level positions. Identify each test used in the selection and explain how it is scored for each job classification.
5. Supply a statement or documents describing the circumstances in which the testing requirement for any job or job classification, including entry level positions, have ever been or may be waived.
6. Indicate whether an applicant or employee may retake a test, including a test for entry level positions, after failing to "pass" or failing to achieve a satisfactorily high score. If so, submit a list of persons retested for failing to "pass" and/or failing to achieve a satisfactory score for all job classifications requiring a test, including entry level positions, during the investigative period. Identify the applicant by name, race and facility; identify the test taken, including the dates and scores of tests, and, identify the jobs and/or job classifications requiring the test.
7. Submit a list of persons by name, race, facility and job classification, including entry level positions, who have received waivers of the test for the period January 1, 2004 to the present.
8. Supply a list of the applicants or employees who took a test given for any job classification, including entry level positions during the investigative period. For each person listed, identify them by name, race, facility, position, actual test score, and if selected, indicate the date of the selection and position for which selected.

On Behalf of the Commission:



6/6/08

Marie M. Tomasso

 District Director

Date

SUBPOENA
PROOF OF SERVICE

I hereby certify that being over 18 years of age and not a party to or any way interested in these proceedings, I duly served a copy of the subpoena on the persons named in this subpoena.

☐ in person
☒ by certified mail
☐ by leaving a copy with a responsible person, at the principal office or place of business, to wit:

Name _____

Position _____

Address _____

On 6-6-08 _____
(Mo, day & year)

Sylvia Ann Neimiller
(Signature of person making service)

Office Automation Assistant
(Official title, if any)

State Pennsylvania

Parish/County Philadelphia

CERTIFICATION OF ATTENDANCE

I certify that the person named herein was in attendance and satisfactorily produced the records requested or gave oral testimony at

On _____
(Mo, day & year)

(Signature of person making service)

(Official title, if any)

2003 3110 0001 6391 1765

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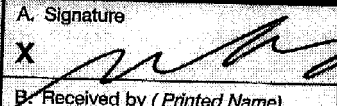
OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

To: Carol Monaghan
 Supervisor Labor & EEO Investigations
 SUNOCO
 1735 Market Street, Suite LL
 Philadelphia, PA 19103-7583

PS Form 3800, June 2002

Postmark Here 6-10-08
 Delivery No. 19-015-11
 #530-2077-01538

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p>Carol Monaghan Supervisor Labor & EEO Investigations SUNOCO 1735 Market Street, Suite LL Philadelphia, PA 19103-7583</p> <p>2. Article Number (Transfer from service label)</p>	<p>A. Signature X </p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery 6-9</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7003 3110 0001 6391 1765</p>	

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

ATTACHMENT 10

7003 3110 0001 6391 1765

U.S. Postal Service™
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 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

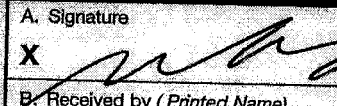
OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

To: Carol Monaghan
 Supervisor Labor & EEO Investigations
 SUNOCO
 1735 Market Street, Suite LL
 Philadelphia, PA 19103-7583

Postmark: 6-6-08
 Philadelphia, PA 19103-7583
 #530-207-0188

PS Form 3800, June 2002 See reverse for instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Carol Monaghan Supervisor Labor & EEO Investigations SUNOCO 1735 Market Street, Suite LL Philadelphia, PA 19103-7583</p>	<p>A. Signature <input checked="" type="checkbox"/> X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery 6-9-08</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>2. Article Number (Transfer from service label)</p> <p>7003 3110 0001 6391 1765</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

ATTACHMENT 11

LAW OFFICES
BALLARD SPAHR ANDREWS & INGERSOLL, LLP

1735 MARKET STREET, 51ST FLOOR
PHILADELPHIA, PENNSYLVANIA 19103-7599
215-665-8500
FAX: 215-664-8999
WWW.BALLARDSPAHR.COM

BALTIMORE, MD
BETHESDA, MD
DENVER, CO
LAS VEGAS, NV
LOS ANGELES, CA
PHOENIX, AZ
SALT LAKE CITY, UT
VOORHEES, NJ
WASHINGTON, DC
WILMINGTON, DE

DANIEL V. JOHNS
DIRECT DIAL: 215-864-8107
PERSONAL FAX: 215-864-9749
JOHNS@BALLARDSPAHR.COM

July 1, 2008

VIA FACSIMILE (215-440-2632)

Brenda Hester, Investigator
Equal Employment Opportunity Commission
Philadelphia District Office
21 South 5th Street, Suite 400
Philadelphia, PA 19106-2515

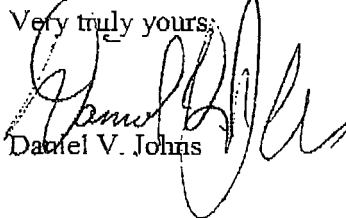
Re: **Kevin Powell and Sunoco, Inc. (R&M)**
EEOC Charge Number: 530-2007-01838

Dear Mrs. Hester:

I write to inform you that I have been retained by Sunoco, Inc. (R&M) to represent it in the above-referenced matter. Please direct any future correspondence or questions concerning the case to my attention.

Thank you.

Very truly yours,


Daniel V. Johns

DVJ/jaw

cc: Brian M. Rhodes, Esquire
Aisha M. Barbour, Esquire

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

1735 MARKET STREET, 51st FLOOR
PHILADELPHIA, PENNSYLVANIA 19103-7599

215-665-8500

FAX: 215-664-8999

WWW.BALLARDSPAHR.COM

BALTIMORE, MD

BETHESDA, MD

DENVER, CO

LAS VEGAS, NV

LOS ANGELES, CA

PHOENIX, AZ

SALT LAKE CITY, UT

VOORHEES, NJ

WASHINGTON, DC

WILMINGTON, DE

DANIEL V. JOHNS

DIRECT DIAL: 215-664-8107

PERSONAL FAX: 215-664-9749

JOHNS@BALLARDSPAHR.COM

July 1, 2008

VIA FACSIMILE (215-440-2632)

Brenda Hester, Investigator
Equal Employment Opportunity Commission
Philadelphia District Office
21 South 5th Street, Suite 400
Philadelphia, PA 19106-2515

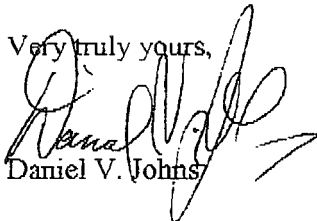
Re: **Kevin Powell and Sunoco Inc. (R&M)**
EEOC Charge Number: 530-2007-01838

Dear Mrs. Hester:

This firm represents Sunoco Inc. (R&M) ("Sunoco") in the above-referenced matter. I write in response to the subpoena issued by your office on June 6, 2008, directing Sunoco to produce information and documents related to its hiring process. In light of the EEOC's dismissal of Mr. Powell's charge of discrimination, Sunoco objects to the subpoena on the grounds that it seeks information that is not relevant to any charge under investigation. Sunoco further objects to the subpoena on the grounds that it has not been given fair notice of the existence and nature of any pending charge against it to which the subpoena relates. Sunoco also objects to the subpoena on the grounds that it is overly broad as to time and scope and unduly burdensome. For the foregoing reasons, Sunoco respectfully declines to provide the requested information.

Please feel free to call me if you would like to discuss these matters.

Very truly yours,


Daniel V. Johns

DVJ/amb

cc: Brian M. Rhodes, Esquire
Aisha M. Barbour, Esquire